

EXHIBIT 1

INTRODUCTION

Respondent Chris Norby was a successful candidate for a seat on the Orange County Board of Supervisors in the March 5, 2002 election, having previously served for 18 years on the Fullerton City Council. Norby for Supervisor (the “Committee”) is the controlled committee of Respondent Chris Norby. Respondent Michael DiCostanzo was, at all relevant times, the treasurer of Respondent Committee.

The Political Reform Act (the “Act”)¹ requires a candidate and his or her controlled committee to file periodic campaign statements disclosing contributions received and expenditures made. Additionally, the Act requires a candidate and his or her controlled committee to return within 60 days of receipt any contribution for which they do not have required contributor information.

In this matter, Respondents failed to disclose on two odd-year pre-election campaign statements occupation and employer information for 98 contributions of \$100 or more totaling \$27,550; and failed to return within 60 days of receipt 98 contributions of \$100 or more totaling \$27,550 that were received during two reporting periods, and for which they did not have occupation and employer information.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents Chris Norby, Norby for Supervisor, and Michael DiCastanzo failed to disclose the occupation and employer information for forty-four contributions of \$100 or more totaling \$15,950 on a first odd-year pre-election campaign statement, for the reporting period January 1, 2001 through September 30, 2001, filed on or about January 4, 2002, in violation of section 84211, subdivision (f) of the Government Code.

COUNT 2: Respondents Chris Norby, Norby for Supervisor, and Michael DiCastanzo failed to return within 60 days of receipt forty-four contributions of \$100 or more totaling \$15,950 that were received during the first odd-year pre-election reporting period January 1, 2001 through September 30, and for which they did not have occupation and employer information, in violation of section 85700 of the Government Code.

COUNT 3: Respondents Chris Norby, Norby for Supervisor, and Michael DiCastanzo

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at title 2, California Code of Regulations section 18109 through 18997. All references to regulations are to title 2, division 6 of the California Code of Regulations.

failed to disclose the occupation and employer information for fifty-four contributions of \$100 or more totaling \$11,600 on a second odd-year pre-election campaign statement, for the reporting period October 1, 2001 through December 31, 2001, filed on or about January 10, 2002, in violation of section 84211, subdivision (f) of the Government Code.

COUNT 4: Respondents Chris Norby, Norby for Supervisor, and Michael DiCastanzo failed to return within 60 days of receipt fifty-four contributions of \$100 or more totaling \$11,600 that were received during the second odd-year pre-election reporting period October 1, 2001 through December 31, 2001, and for which they did not have occupation and employer, in violation of section 85700 of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order for voters to be fully informed and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

In the case of a candidate who has filed a statement of intention to be a candidate in a primary election held in March of an even-numbered year, section 84200.3 requires the candidate and his or her controlled committee to file two odd-year pre-election campaign statements. Under section 84200.4, subdivision (a), the first odd-year campaign statement covers the reporting period ending September 30 of the year prior to the election, and must be filed no later than October 10. Under section 84200.4, subdivision (b), the second odd-year campaign statement covers the reporting period ending December 31 of the year prior to the election, and must be filed no later than January 10 of the year of the election.

Section 84211, subdivision (f) requires a candidate and his or her controlled committee to report on each of their campaign statements the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor’s full name; (2) the contributor’s street address; (3) the contributor’s occupation; (4) the name of the contributor’s employer, or if self-employed, the name of the contributor’s business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

As required by section 85700, subdivision (a), a candidate must return within 60 days of receipt any contribution of \$100 or more for which the candidate does not have on file in his

or her records the name, address, occupation, and employer of the contributor.

Under section 84100 and regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Chris Norby was a successful candidate for a seat on the Orange County Board of Supervisors in the March 5, 2002 primary election, having previously served for 18 years on the Fullerton City Council. Respondent Committee is, and was at all relevant times, the controlled committee of Respondent Chris Norby. Respondent Michael DiCostanzo is, and was at all relevant times, the treasurer of Respondent Committee. During 2001, Respondents received contributions totaling approximately \$121,375.

COUNTS 1 and 3

Failure to Disclose Occupation and Employer Information

Respondent Norby, as a candidate, Respondent Committee, as a controlled committee, and Respondent DiCostanzo, as the treasurer of a controlled committee, had a duty to disclose occupation and employer information for each individual who contributed \$100 or more to the campaign of Respondent Norby.

On January 2, 2002, Respondents filed a delinquent first odd-year pre-election campaign statement for the reporting period January 1, 2001 through September 30, 2001. During the first odd-year pre-election reporting period, Respondents reported that they received 134 contributions of \$100 or more totaling \$35,600. Of the 134 contributions of \$100 or more, Respondents did not disclose occupation and employer information for 44 contributions totaling \$15,950.

On January 10, 2002, Respondents filed a second odd-year pre-election campaign statement for the reporting period October 1, 2001 through December 31, 2001. During the second odd-year pre-election reporting period, Respondents reported that they received 296 contributions of \$100 or more totaling \$64,750. Of the 296 contributions, Respondents failed to disclose occupation and employer information for 54 contributions totaling \$11,600.

By failing to disclose occupation and employer information for 98 contributions totaling \$27,550 on two separate campaign statements, Respondents committed two violations of section 84211, subdivision (f).

COUNTS 2 and 4

Failure to Return Contributions Due to Lack of Contributor Information

Respondent Norby, as a candidate, Respondent Committee, as a controlled committee, and Respondent DiCostanzo, as the treasurer of a controlled committee, had a duty to return within 60 days of receipt any contribution of \$100 or more for which they did not have the name, address, occupation, and employer of the contributor.

On January 2, 2002, Respondents filed a delinquent first odd-year pre-election campaign statement for the reporting period January 1, 2001 through September 30, 2001. During the first odd-year pre-election reporting period, Respondents reported that they received 134 contributions of \$100 or more totaling \$35,600. Of those 134 contributions, Respondents did not have occupation and employer information for 44 contributions totaling \$15,950, and did not return the 44 contributions within 60 days of receiving the contributions despite having insufficient information regarding the contributions.

On January 10, 2002, Respondents filed a second odd-year pre-election campaign statement for the reporting period October 1, 2001 through December 31, 2001. During the second odd-year pre-election reporting period, Respondents reported that they received 296 contributions of \$100 or more totaling \$64,750. Of those 296 contributions, Respondents did not have occupation and employer information for 54 contributions totaling \$11,600, and did not return the 54 contributions within 60 days of receiving the contributions despite having insufficient information regarding the contributions.

By failing to return 98 contributions of \$100 or more totaling \$27,550 for which they did not have sufficient contributor information and that were received during two separate reporting periods, Respondents committed two violations of section 85700.

At the time the 98 contributions, described above, were received, Orange County had an ordinance prohibiting any campaign contributions from being deposited into a campaign bank account of a county candidate unless the disclosure information required by the Act, including the occupation and employer of the contributor, was on file in the records of the recipient of the contribution. After being informed by a concerned citizen of the local ordinance and the Act's 60-day return requirement, Respondents subsequently amended their two campaign statements to disclose occupation and employer for 85 of the 98 contributions. This disclosure was accomplished prior to the election.

CONCLUSION

This matter consists of four counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per violation, for a total of \$20,000.

Regarding Counts 1 and 3, the typical stipulated administrative penalty for the failure to disclose occupation and employer information has ranged from \$1,000 to \$2,000, depending on the circumstances of the case. In this matter, the requirement to disclose contributor occupation and employer information is a requirement of long-standing and is also the subject of a local ordinance. Respondent Norby is a seasoned candidate, having held elective office for 18 years, and should have been familiar with the campaign reporting laws. In mitigation, upon being

notified of the reporting violation, Respondents voluntarily disclosed the missing information in amended campaign statements for the majority of the contributions. This disclosure was accomplished in advance of the election. As such, imposition of an administrative penalty at the middle of the settlement range, in the amount of \$1,500 per violation, is appropriate.

Regarding Counts 2 and 4, the Commission has not yet established a typical stipulated administrative penalty for the failure to return contributions for which the recipient does not have all required information regarding the contributor. In this matter, both the total number of individual contributors for whom Respondents had insufficient information and the total dollar amount of their contributions was fairly significant for the two reporting periods. In further aggravation, upon being notified of the 60-day return requirement, Respondents did not return the contributions for which they had insufficient contributor information. However, the 60-day return requirement was a relatively new law that took effect in 2001, and Respondents attempted to cure the disclosure violations by obtaining the missing contributor information and filing amended campaign statements before the election. Additionally, Respondents have not previously been found to have violated the Act. As such, imposition of a penalty in the amount of \$3,500, per violation, which approaches the upper end of the penalty range, is appropriate.

Accordingly, the facts of this case justify a total administrative penalty of \$10,000.